

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Norma Hunter,

Plaintiff,

v.

Civil No. 14-753 (JNE/JSM)
ORDER

Bank of America, N.A., and Safeguard
Properties, LLC,

Defendants.

Plaintiff Norma Hunter commenced this action as a Minnesota state court case by serving a summons and complaint on the Defendants, Bank of America and Safeguard Properties, in February of 2014. Bank of America removed the action to this Court on March 17, 2014. ECF No. 1.

Hunter has now moved to remand the case to state court and for an award of attorney's fees and costs. ECF No. 8. In its response to Hunter's motion, Bank of America concedes that there was a defect in the removal process and thus "consents to remand of this matter to the Hennepin County District Court" ECF No. 15 at 1. The portion of Hunter's motion requesting that the case be remanded to state court will therefore be granted.

Bank of America does, however, contest Hunter's request for a fee award. The Court has carefully considered that request. *See Martin v. Franklin Capital Corp.*, 546 U.S. 132, 140-41 (2005) (directing that court's exercise of its discretion to issue fee awards under 28 U.S.C. § 1447(c) should be based on objective reasonableness of removing party's action and "recognize the desire deter removals sought for the purpose

of prolonging litigation and imposing costs on the opposing party”). While it shares some of Hunter’s concerns, particularly with respect to the flaws in the Notice of Removal that Bank of America filed with this Court, *see* ¶ 6, ECF No. 1 (asserting that “Safeguard[’s] consent is not required” because Bank of America was “not aware” that it had been served), the Court in its discretion declines to award fees in this case.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT IS ORDERED THAT:

1. Plaintiff’s Motion to Remand to State Court and for an Award of Attorney’s Fees and Costs [ECF No. 8] is GRANTED IN PART and DENIED IN PART as explained above.
2. This case is REMANDED to the Hennepin County District Court / Fourth Judicial District of the State of Minnesota.
3. The Clerk of Court shall MAIL a certified copy of this Order to the Clerk of the Hennepin County District Court / Fourth Judicial District of the State of Minnesota.

Dated: May 5, 2014

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge